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Appl. No. 10/531,191
Amdt. dated June 13, 2007
Reply to Office Action of May 16, 2007

Remarks

The present amendment responds to the Official Action dated May 16, 2007. That Action required restriction under 35 U.S.C. 121 to Group I, claims 1-4 and 6 drawn to a method for producing a cathode material, or Group II, claims 5 and 7 drawn to a lithium battery. Claims 1-4 and 6 have been amended consistent with the telephone Interview summarized below. Claims 1-7 are presently pending.

Interview Summary

The Examiner is thanked for the courtesy of a telephone Interview conducted on May 22, 2007 seeking clarification of the grounds for the restriction requirement. The undersigned noted that the Detailed Action states as its sole basis for supporting the restriction requirement that "In the instant case the product can be made by a materially different process such as forming the cathode in situ in the electrochemical cell." It was further pointed out that claim 5 claims "a lithium battery using a cathode material produced by the method according to any one of claims 1 to 3 or 6 as a constituent component and that claim 7 uses "a cathode material produced by the method according to claim 4". Further, claims 1-4 and 6 all address "a method for producing a cathode material for a lithium battery." As a result, it appeared that at a minimum any search of the claims would necessarily overlap. In response, the Examiner pointed out that she considered the above quoted language from claims 1-4 and 6 to be part of the preamble and thus non-limiting. The undersigned raised the question whether including this language in the body of the claims would overcome the restriction requirement, and the Examiner agreed that if the claims were sufficiently similar, it would. Exact wording was not agreed upon at least in part because

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the undersigned needed to follow up with the client in Japan as to whether the proposed amendment was acceptable.

Request for Reconsideration

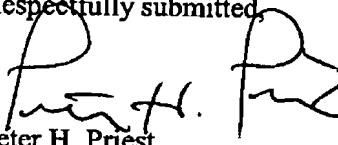
In independent claims 1 and 2, the language "cathode material for a lithium battery" has been moved from the preamble to the body of the claim. Claims 3, 4 and 6 depend from these claims. Based on this amendment, reconsideration and withdrawal of the restriction requirement are requested.

While it is believed that the present amendment overcomes the restriction requirement, applicants provisionally elect the Group I claims with traverse. The inventions clearly are not independent or distinct for the sole reason advanced by the Detailed Action.

Conclusion

In light of the present amendment, withdrawal of the restriction requirement is requested.

Respectfully submitted,



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